REMARKS

In view of the following remarks, reconsideration of the outstanding office action is respectfully requested.

The Office has rejected claims 1-111 under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,704,045 to King et al (King), US Patent No. 6,119,093 to Walker et al (Walker), US Patent No. 6,604,080 to Kern (Kern) in view of US Patent Application Publication No. 2002/0035488 to Aquila et al (Aquila). The Office asserts King discloses a method executed in a computer system for managing monies and information in connection with an insurance insolvency (See King, Col.5, lines 47-67) which includes designating a state fund for each state associated with said insurance insolvency (See King, Col.9, lines 9-26) and associating with said state fund an insurance account in the computer system (See King, Col22, lines 45-62). The Office asserts that King, Walker, and Kern do not disclose: associating with said insurance account least one line insurance; identifying in the computer system least one of a state statute, regulation and rule relating to the at least one line insurance associated with the insurance account; and performing at least one insolvency related service in connection with said insurance solvency based on the identified least one a state statute, regulation and the at least one line of insurance associated with the insurance account. However the Office asserts Aquila suggests: associating with the insurance account least one line insurance; identifying in the computer system at least one of a state statute, regulation and rule relating the least one line of insurance associated with the insurance account; and performing at least one insolvency related service in connection with said insurance solvency based on the identified at least one of a state statute, regulation and rule and the at least one line of insurance associated with the insurance account (See Aquila, Page 17, Paragraphs 0304-0308; Page 19, Paragraphs 0333-0341). The Office asserts it would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Aquila within the collective teachings of King, Walker and Kern with the motivation of auditing sub-system which applies insurance carrier specific business rules, government regulations, and comprehensive trending analysis to detect and rectify any inconsistencies and irregular processing of claims, by auditing internal processes or user or service providers submitted data (See Aquila, Page 2, Paragraph 0023).

King, Walker, Kern, and Aquila, alone or in combination, do not disclose or suggest, "designating a state fund for each state associated with said insurance insolvency . . . associating with said state fund an insurance account in the computer system" as recited in

claim 1, "designating a state fund for each state associated with said insurance insolvency . . . associating with said state fund an insurance account of a first type" as recited in claim 34, or "a designation system in the computer system that designates a state fund for each state associated with the insurance insolvency . . . a state fund association system in the computer system associates with the state fund an insurance account" as recited in claim 67.

Contrary to the Office's assertions, nowhere in King is there even any mention of any state funds, let alone of designating a state fund for each state associated with an insurance account or associating such a state fund with an insurance account. The Office has cited to col. 5, lines 47-67 in King for support of its position which states:

> The present method and system permits parties to transfer any type of financial risk exposure to the risk acceptance subsystem of an entity which has adopted the system, then to provide absolute assurance of timely payment through dedicated transactional capital and premium of the risk diversification subsystem matched to the risk accepted. In the preferred embodiment, an insurance company is the entity which adopts the system, although other enterprises could also utilize the invention.
>
> Under the structure, profits and losses flow through the insurer-entity's risk diversification subsystem, which is designed to diversify risk through several methods hereafter described, which involve the participation of several classes of investors, participating in specific risks. The reserve management subsystem relies on data processing and reporting functions which maintain the risk diversification subsystem at an amount in excess of the risk acceptance subsystem, as well as balancing the values of these subsystems with monetary assets held by fiduciary custodians.
>
> The assets, liabilities and capital of these two subsystems are maintained preferably under a separately established and statutorily protected category of assets, liabilities and capital, referred to as Reserved Assets. The balance of the entity's or insurer-entity's assets, liabilities and capital are classed as General Assets." (Emphasis added).

However, as illustrated by the underlined portions above, King is only disclosing a risk diversification system among different classes of participating investors. King has nothing to do with state funds which are designated for each state associated with an insurance insolvency.

Additionally, the Office has cited to col. 9, lines 9-26 in King for support of its position which states:

> The method and system of the present invention is not limited to acceptance of risks common to many people nor does it impose the rigid contract limitations of an exchange-based structure. Risks accepted by the

insurer-entity could include credit and liquidity risks on corporate and municipal government debt and lease obligations which are unrated or non-investment grade, thereby substantially increasing their liquidity and market value. The insurer-entity is also capable of indemnifying insureds for loss on a change in value of marketable shares, agricultural products, precious metals, petroleum, fluctuations in interest or currency rates, or residual value. It could issue ICC #458 demand guarantees, similar to a letter of credit issued by a bank, or other performance or surety risk contracts; or accept any type of traditional insurance risk, as well as unique or difficult to place risks, such as catastrophe, excess or aggregate exposures, liability or contract risks, or unfunded potential exposures (pollution liability, etc.). (Emphasis added)

However, as illustrated by the underlined portions, this section in King simply discloses that the insurer can accept a variety of different types of risks. Again, in King there is no mention of any state funds, let alone of designating a state fund for each state associated with an insurance account.

Further, the Office has cited to col.22, lines 45-62 in King in King for support of its position which states:

Another function of the subsystem is to assist in asset quality surveillance and report degradation of assets within the insurer-entity's portfolio. The surveillance function will focus on investment portfolio mix to monitor diversification of AAA government issuers, debt obligation types, and to assure that at all times, the insurer-entity's investment portfolio is capable of supporting the payment of a total loss on the aggregate to the insurer-entity's policy obligations, matched to currency and maturity.

Finally, one of its primary reporting functions is to not only report, but assure compliance with the insurer-entity's sophisticated capital matching system. Any changes in assets within the Reserved Assets portfolio must be subject of various certifications and procedures which permit the reserve management subsystem to continuously report that all obligations of the insurer entity, present and in the future, are capable of being fully and completely satisfied from Reserved Assets. (Emphasis added).

However, as illustrated by the underlined portions, this section in King only discloses that the subsystem monitors and reports on whether the insurer-entity's investment portfolio is capable of supporting the payment of a total loss on the aggregate to the insurer-entity's policy obligations. Additionally, this section in King discloses that the subsystem monitors whether the portfolio is complying with the system's capital matching system. A capital matching system is an exchange system where buyers and sellers are transferring or accepting risks and is not related to an insurance insolvency as discussed in column 3, lines 21-24, in King and set forth below:

> [A] capital matching system such as an exchange, accepts risk by
> matching buyers and sellers, i.e., parties transfer risk to those accepting it,
> in effect matching risk to capital. Under this system parties transfer or
> accept risks which are easily quantified in comparatively small units, such
> as through futures and options contracts. It limits the types and conditions
> under which parties may transfer to specifically defined contractual units,
> priced by the marketplace, being a price agreed between those parties
> wishing to transfer risk and those willing to accept it.

Again, there is no mention of any state funds in King, let alone of designating a state fund for each state associated with an insurance account or associating such a state fund with an insurance account. Like King, the other cited references do not teach or suggest the claimed invention.

In contrast, as discussed on pages 2 and 3 of the above-identified patent application, the present invention is used for managing monies and paying covered claims as defined in connection with an insurance insolvency when one or more state funds are involved for the purpose of paying covered claims and the insolvent company is associated with one or more of these state funds. Therefore, in view of the foregoing amendments and remarks, the Office is respectfully requested to reconsider and withdraw the rejection of claims 1, 34, and 67. Since claims 2-33 and 100-103 depend from and contain the limitations of claim 1, claims 35-66 and 104-107 depend from and contain the limitations of claim 34, and claims 68-99 and 108-111 depend from and contain the limitations of claim 67, they are distinguishable over the cited references and are patentable in the same manner as claims 1, 34, and 67.

Additionally, King, Walker, Kern, and Aquila, alone or in combination, do not disclose or suggest "performing at least one insolvency related service in connection with said insurance solvency based on the identified at least one of a state statute, regulation and rule and the at least one line of insurance associated with the insurance account" as recited in claim 1, "performing at least one insolvency related service in connection with said insurance solvency based on the identified at least one of a state statute, regulation and rule and the at least one line of insurance associated with the insurance account" as recited in claim 34, or "an insolvency processing system that performs at least one insolvency related service in connection with said insurance solvency based on the identified at least one of a state statute, regulation and rule and the at least one line of insurance associated with the insurance account" as recited in claim 67.

As the Office has acknowledged, King, Walker, and Kern, do not disclose,

inter alia, performing at least one insolvency related service in connection with said insurance solvency based on the identified least one a state statute, regulation and the at least one line of insurance associated with the insurance account.

Contrary to the Office's assertions, nowhere in Aquila is there even any mention of handling an insurance insolvency, let alone performing at least one insolvency related service in connection with said insurance solvency based on the identified at least one of a state statute, regulation and rule and the at least one line of insurance associated with the insurance account. The Office has cited to page 17, paragraphs 0304-0308 in Aquila for support of its position which states:

[0304] <u>The Automated Payment System 250 (APS) automates the process of fulfilling payment requests made under insurance claims.</u> APS 250 receives invoices (payment requests) from vendors, automatically approves payments according to the insurance carrier business rules, disburses payments to vendors via a trustee bank 2603 using ACH (Automated Clearing House) methods, where possible, tracks the transaction, and provides reconciliation and accounting details to the Insurance Carrier systems. For automobile line of insurance, examples of vendors who provide invoices and receive payment are Repair Facilities, Independent Appraisers, Rental Agencies, Towing Facilities, Salvage Companies, Storage Facilities, and Parts Suppliers, Auto Glass Suppliers, and even policy holders or claimants who have incurred pre-paid costs covered under the insurance policy. For the movement of funds, the insurance carrier's bank 2601 will fund the trustee bank's 2603 escrow account; and the trustee bank 2603 will pay the payee 2605 or fund the vendor's (payee) bank.

[0305] <u>The APS 250 receives an invoice or estimate directly from the vendor in electronic form, automatically approves payments based on the carrier's payment rules, aggregate payments for vendors, automatically disburses payments via the claims payment clearing house in the form of the trustee bank 2603, and automatically reconciles the loss and the payment to the carrier's internal systems.</u>

[0306] The APS 250 will also support customer service for carrier and vendor queries.

[0307] b. Process

[0308] <u>FIG. 27 is a flow diagram of a process of automating claim payments from the prospective of an automated processing system. First, the APS 250 receives 2701 an electronic payment request based on a fee estimate or an invoice for work already completed.</u> In one embodiment, the electronic payment request contains: (1) information about the insurance claim the request is being made under, (2) the requestor's profile information (e.g., name, address, phone number, email address, payment preference (e.g., ACH, wire transfer, check), ACH data, if any.), and (3)

information about the request being made including work done, or to be done, amounts requested for tasks completed or on amounts requested based on estimated cost for tasks to be completed. (Emphasis added).

Accordingly, as illustrated by the underlined portions, Aquila is merely disclosing an automated payment system for fulfilling payment requests made under solvent insurance claims for repair work that has been performed. There is no discussion or suggestion of any insurance insolvency in this section of Aquila, let alone any discussion or suggestion of performing at least one insolvency related service in connection with said insurance solvency based on the identified least one a state statute, regulation and the at least one line of insurance associated with the insurance account.

Additionally, the Office has cited to page 19, paragraphs 0333-0341 in Aquila for support of its position which states:

[0333] In one embodiment, an individual payment is sent to a payee 2605 for each payment request made and validated. In an alternate embodiment, payments to payees 2605s with multiple payment requests that are validated are aggregated into a single payment. In one embodiment, multiple payments from a single insurance carrier to a single payee 2605 are aggregated into a single payment. In an alternate embodiment, payments to the same payee 2605 are aggregated across all carriers participating in the clearing house. Individual payee 2605s are uniquely identified by a payee 2605 code. In yet another embodiment, the APS 250 aggregates payments at both levels: multiple payments from a single carrier to a single payee 2605, and payments from several carriers to a single payee 2605 are aggregated into one payment.

[0334] ix. Payee/Payor Inquiry to Clearing House

[0335] In one embodiment, the trustee bank will provide customer service via the telephone. Payees 2605 or payors who have questions regarding lost, destroyed checks can contact a 1 800 number for customer service. Additionally, customers who have question regarding ACH payments can contact the customer service number as well. The clearinghouse will only answer questions regarding payments it has executed based on the APS 250 instructions. Any questions regarding claims, invoice amounts, etc will be directed to the APS 250 system or the specific Insurance Carrier (Payor).

[0336] x. Reconciliation

[0337] In one embodiment, APS 250 tracks payments by insurance carrier, claim number, payee 2605 and amount. For aggregated payments, sufficient individualized information is provided the payee 2605 such that the aggregate payments can be decomposed into claim-level or job-specific detail. In another embodiment, after an aggregate payment has been made and APS 250 transmits notification of the payment to the payee

2605, APS 250 provides the payee 2605 with sufficient information to access, view and retrieve payment data stored on the eclaim database 280 to allow the payee to decompose the aggregate payment.

[0338] APS 250 provides information to the insurance carrier system 65 to allow the claim and accounting information systems of the insurance system 65 to ensure the payments balance, close the claim, and update the insurance carrier database. In an alternate embodiment, the insurance carrier system 65 is provided access to and retrieval information to retrieve payment information from the eclaim database 180.

[0339] 9. The Customer Satisfaction Index Collection Sub-system (CSI Sub-system)

[0340] a. General

[0341] CSI sub-system 260 generates questionnaires to gather customer satisfaction data from customers (e.g., policy holders or consumers), gathers the customer satisfaction data, and then use the data gathered to generate a customer satisfaction index (CSI) score for each survey and an aggregate CSI score from the individual CSI scores for each commercial participant (e.g., service providers, insurance carrier staff who have handled a policy holder claim, the insurance carrier.) which can be stored and later utilized in ranking the commercial participant. In one embodiment, data of user satisfaction of processes, sub-systems and systems described above is also gathered. The survey data gathered from policy holders and consumers are stored in the eclaim database 280, while the calculated aggregate CSI is stored into the directory database 290 in association with the party whose work is being scored. In one embodiment, incentives such as discounts on repairs are provided to customers to retrieve satisfaction data from them. (Emphasis added).

Accordingly, as illustrated by the underlined portions, Aquila is merely disclosing how to handle payment requests, track payments by the solvent insurance carrier, and how to gather customer satisfaction data. Again, there is no discussion or suggestion of any insurance insolvency in this section of Aquila, let alone any discussion or suggestion of performing at least one insolvency related service in connection with said insurance solvency based on the identified least one a state statute, regulation and the at least one line of insurance associated with the insurance account.

Further, the Office has cited to page 2, paragraph 0023 in Aquila for support of its position which states:

The audit sub-system applies insurance carrier specific business rules, government regulations, and comprehensive trending analysis to detect and rectify any inconsistencies and irregular processing of claims, by auditing internal processes or user or service providers submitted data. (Emphasis added).

Accordingly, as illustrated by the underlined portion, Aquila simply discloses an audit sub-system to detect and rectify any inconsistencies and irregular in processing of claims. The audit sub-system is described in greater detail on page 6, paragraph 0115, which states:

> [0115] The audit sub-system 240 applies insurance carrier specific business rules, government regulations, and comprehensive trending analysis to detect and rectify any inconsistencies and irregular processing of claims, by auditing internal processes or user or service providers submitted data. <u>The audit sub-system 240 can review 427 an estimate made and determine if it is unreasonable or if there is a potential for fraud.</u> If the estimate is approved 433, the assignee is notified and service 435 of the assignment begins. <u>If the audit sub-system 240 determines that the estimate is unreasonable, the audit sub-system 240 notifies an insurance carrier adjuster to review to the estimate.</u>

As illustrated by this section and the underlined portions, the audit sub-system in Aquila is simply designed to detect frauds in estimates for submitted insurance claims. Again, there simply is no discussion or mention of any insolvency related service in Aquila.

In sharp contrast, the present invention is directed to an insurance insolvency and helps to simplify and ensure that insolvency related services are performed in accordance with state statutes, rules, and/or regulations. Accordingly, in view of the foregoing amendments and remarks, the Office is respectfully requested to reconsider and withdraw the rejection of claims 1, 34, and 67. Since claims 2-33 and 100-103 depend from and contain the limitations of claim 1, claims 35-66 and 104-107 depend from and contain the limitations of claim 34, and claims 68-99 and 108-111 depend from and contain the limitations of claim 67, they are distinguishable over the cited references and are patentable in the same manner as claims 1, 34, and 67.

In view of all of the foregoing, Applicant submits that this case is in condition for allowance and such allowance is earnestly solicited.

Respectfully submitted,

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